



# PUBLIC NOTICE

**FEDERAL COMMUNICATIONS COMMISSION**  
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**DA 03-100**  
**January 29, 2003**

## **REVISED INVENTORY AND AUCTION START DATE FOR AUCTION OF LOWER 700 MHz BAND LICENSES**

### **COMMENT SOUGHT ON RESERVE PRICES OR MINIMUM OPENING BIDS AND OTHER AUCTION PROCEDURES**

#### **Report No. AUC-03-49-B (Auction No. 49)**

In the *Auction No. 49 Comment Public Notice*, the Wireless Telecommunications Bureau ("Bureau") announced the auction of 251 licenses in the Lower 700 MHz band C block (710-716/740-746 MHz) scheduled to commence on April 16, 2003 ("Auction No. 49").<sup>1</sup> In the *Auction No. 49 Comment Public Notice*, the Bureau also sought comment on procedures for the auction of those licenses. By this Public Notice, we revise the auction inventory to include five licenses in the Lower 700 MHz band D block (716-722 MHz)<sup>2</sup> that remained unsold in Auction No. 44.<sup>3</sup> These five additional licenses, as well as the other licenses<sup>4</sup> to be offered in Auction No. 49, are identified in Attachment A. This Public Notice seeks

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<sup>1</sup> Auction of Lower 700 MHz Band Licenses Scheduled for April 16, 2003; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 02-3287 (rel. December 2, 2002), 67 FR 72946 ("Auction No. 49 Comment Public Notice").

<sup>2</sup> In response to the *Auction No. 49 Comment Public Notice*, several commenters requested that the Bureau include the Lower 700 MHz D block licenses in Auction No. 49. See Aloha Partners, L.P. ("Aloha") Comments at 1-3, Aloha Reply Comments at 1-2; C&S Partners (C&S) Comments at 2-3, C&S Reply Comments at 1-2; Cavalier Group, LLC Reply Comments at 1-2; Harbor Wireless, LLC Comments at 1-4; Milkyway Broadband Reply Comments at 1-2; QUALCOMM Comments at 2-3; and QUALCOMM Reply Comments at 1-3.

<sup>3</sup> Auction No. 44 closed on September 18, 2002. See Lower 700 MHz Band Auction Closes, Winning Bidders Announced, Down Payments Due October 4, 2002, FCC Forms 601 and 602 Due October 4, 2002, Ten-Day Petition to Deny Period, *Public Notice*, 17 FCC Rcd 17272 (2002).

<sup>4</sup> The Bureau has before it a Request for Waiver of Auction Procedures and Section 1.2109 of the Commission's Rules filed on October 2, 2002, by Banks Broadcasting, Inc. ("Banks") and a Petition to Promptly Resolve Waiver Request or Remove Four Licenses from Auction No. 49 Pending Resolution of Outstanding Waiver Request, filed by Banks on December 17, 2002. In these filings, Banks seeks to have the Bureau offer it four of the

comment on procedural issues related to the auction of the Lower 700 MHz band D block licenses. Also by this Public Notice, we revise the starting date for Auction No. 49 to May 28, 2003, in order to provide additional time for bidder preparation and planning.

The following table contains the block/frequency cross-reference for the 710-716/740-746 MHz and 716-722 MHz Bands:

<u>Block</u>	<u>Frequencies</u>	<u>Bandwidth</u>	<u>Pairing</u>	<u>Geographic Area Type</u>	<u>No. of Licenses</u>
C	710-716, 740-746	12 MHz	2 x 6 MHz	MSA/RSA	251
D	716-722	6 MHz	unpaired	700 MHz EAG	5

(Note: For Auction No. 49, licenses are not available in every market for the frequency blocks listed in the above table. See Attachment A to determine which licenses will be offered.)

## **I. Reserve Price or Minimum Opening Bid**

For the five additional D block licenses offered in Auction No. 49, the Bureau proposes to use the same formula for calculating minimum opening bids as proposed in the *Auction No. 49 Comment Public Notice*.<sup>5</sup> Specifically, for Auction No. 49, the Bureau has proposed the following license-by-license formula for calculating minimum opening bids:

$$\$0.01 * \text{MHz} * \text{License Area Population}^6 \text{ with a minimum of } \$1,000 \text{ per license.}^7$$

A complete list of all licenses to be offered in Auction No. 49 and the proposed minimum opening bid for each is set forth in Attachment A. Comment is sought on this proposal. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act of 1997, the public interest would be served by having no minimum opening bid or reserve price.<sup>8</sup>

## **II. Upfront Payments and Initial Maximum Eligibility for Each Bidder**

For the five additional D block licenses offered in Auction No. 49, the Bureau proposes to use the same formula for determining upfront payments as previously proposed in the *Auction No. 49 Comment Public*

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licenses listed herein based on high bids Banks formerly held on these licenses in Auction No. 44. The Bureau will respond to Banks's request in a separate Order.

<sup>5</sup> *Auction No. 49 Comment Public Notice* at Section II.B.

<sup>6</sup> All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. See Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

<sup>7</sup> Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

<sup>8</sup> See 47 U.S.C. § 309(j) (as amended by Balanced Budget Act, Section 3002(a)). The Commission's authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104(c) and (d).

*Notice.*<sup>9</sup> Specifically, for Auction No. 49, the Commission has proposed the following license-by-license formula for calculating upfront payments:

$\$0.005 * \text{MHz} * \text{License Area Population}$ <sup>10</sup> with a minimum of \$1,000 per license.<sup>11</sup>

The specific upfront payment and bidding units for each license are set forth in Attachment A of this Public Notice. We seek comment on this proposal.

For the additional licenses offered in Auction No. 49, the Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids. This limit is a bidder's "maximum initial eligibility." Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its maximum initial eligibility and the license was selected on the FCC Form 175. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the **maximum** number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. We seek comment on this proposal.

### **III. Other Auction Procedural Issues**

In the *Auction No. 49 Comment Public Notice*, the Bureau also set forth and sought comment on the following proposals relating to auction structure and bidding procedures: (1) simultaneous multiple round auction design; (2) activity rules; (3) activity rule waivers and reducing eligibility; (4) information relating to auction delay, suspension or cancellation; (5) round structure; (6) minimum acceptable bids and bid increments; (7) high bids and tied bids; (8) information regarding bid withdrawal and bid removal; and (9) auction stopping rule. For the additional licenses in Auction No. 49, the Bureau proposes to use the same auction structure and bidding procedures proposed in the *Auction No. 49 Comment Public Notice*.<sup>12</sup> We seek comment on these proposals as they relate to the five additional licenses in the Lower 700 MHz band D block included in Attachment A.

### **IV. Conclusion**

Comments are due on or before February 12, 2003, and reply comments are due on or before February 19, 2003. The Bureau requires that all comments and reply comments be filed electronically. Comments and

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<sup>9</sup> *Auction No. 49 Comment Public Notice*, Section I.B.

<sup>10</sup> All population figures are from the 2000 U.S. Census, U.S. Department of Commerce, Bureau of the Census. See Census 2000 Summary File 1 (SF1) and July 3, 2001, News Releases covering the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

<sup>11</sup> Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

<sup>12</sup> *Auction No. 49 Comment Public Notice*, Section I-II.

reply comments must be sent by electronic mail to the following address: [auction49@fcc.gov](mailto:auction49@fcc.gov).<sup>13</sup> The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 49 Comments. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW, Washington, DC 20554.

**In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.**

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>14</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.<sup>15</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.<sup>16</sup>

For further information concerning this proceeding, contact the Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, as listed below:

For legal questions: Howard Davenport (202) 418-0660

For general auction questions: Lyle Ishida (202) 418-0660  
Linda Sanderson (717) 338-2888

For service rule questions: Amal Abdallah (202) 418-7307  
Evan Baranoff (202) 418-7142  
Joanne Epps or Melvin Spann at (202) 418-0620

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<sup>13</sup> Comments and reply comments in response to this Public Notice may **not** be filed using the Commission’s Electronic Comment Filing System, which is used for the Commission’s docketed rule making proceedings.

<sup>14</sup> 47 C.F.R. §§ 1.1200(a), 1.1206.

<sup>15</sup> 47 C.F.R. § 1.1206(b).

<sup>16</sup> *Id.*